

Proposed Minutes
Juvenile Benchbook Committee
January 27, 2017
10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, Amanda Yonally, David Cates, John Plummer III, Todd Ruetz, Sally Berish, Diana Burleson

Staff: Matthew Hagenbush

1. The minutes from October 28, 2016 were approved.
2. Juvenile Delinquency Benchbook revisions - next steps – The committee discussed revisions to the Juvenile Delinquency Benchbook and the way those revisions would be completed. The committee determined that chapters would be assigned to pairs of committee members, then put before the committee for review and approval. The committee decided to assign chapters in chronological order according to the flow of a case, in the same way as the current benchbook is organized. The committee agreed that Chapters 1, 2, and 3 would be assigned at the next meeting.
3. ICWA update –Matt Hagenbush updated the committee on the initial hearing order modified with versions for ICWA cases and non-ICWA cases. The committee expressed concern with splitting the initial hearing order into two different versions, and suggested instead one initial hearing order with checkboxes for appropriate language in ICWA and in non-ICWA cases. In discussing this topic, the committee determined that a general template for form development will be drafted for internal committee use to keep orders and other forms consistent.
4. Post-TPR benchcard update – Matt Hagenbush provided further information on the post-TPR benchcard, which was returned to the Child Welfare Improvement Committee after approval by this committee. CWIC plans to add questions for the child as well as the guardian ad litem before beginning a pilot of the benchcard in three courts, at least one of which will likely come from the committee.
5. Child support and administrative reimbursement orders in CHINS cases – The committee discussed initial hearing order language proposed by Mag. Polando to address provisions contained within Ind. Code 31-40-1-3 requiring parents to submit child support obligation worksheets to the trial court in CHINS cases. Most judicial officers do not receive such worksheets. The committee agreed with Mag. Polando's suggestion, and approved the language proposed with minor edits.
6. Revisions to waiver section of Juvenile Delinquency Benchbook –Mag. Berish and Mag. Kelly have completed their revisions to Chapter 7 of the Juvenile Delinquency Benchbook. Mag. Berish presented their work to the committee. D7.01 was revised, and forms D7.02-7.09 had language added and modified. The committee proposed a few changes to forms D7.02-7.09 involving proper service of documents and using the word

“juvenile” in place of the word “child.” With those changes, the revised chapter and corresponding forms were approved. Judge Graham and the committee thanked Mag. Berish and Mag. Kelly for their hard work on this project.

7. Waiver of initial hearings in CHINS cases – Matt Hagenbush offered a request from a judicial officer to get the committee’s opinion on waiving initial hearings in juvenile delinquency cases. The committee referenced Ind. Code 31-37-12-2 in discussing this request, concluding that the statute seems to prohibit waiver. Committee members suggested combining the detention and initial hearings, as well as having the juvenile appear telephonically to reduce time required and expense. However, the committee did not support waiving a child’s initial hearing in the absence of statutory authority to do so.
8. Service of parties in juvenile cases – Matt Hagenbush carried this matter to the committee. In some jurisdictions in the state, necessary statutory parties to the case are not being served with documents in the case. Particularly, parents in delinquency cases and guardians ad litem in CHINS cases are routinely left out. The committee generally agreed that this can be an issue, although it does not occur in all courts. Accountability for this issue is difficult to enforce.
9. Addition of dual status resource notebook to benchbooks – The committee was concerned with being responsible for updating materials that committee members did not draft and were hesitant to place the notebook itself into the juvenile benchbooks. However, a link currently exists on the benchbook forms page to a page containing probation related forms, and the dual status resource notebook is posted there. The committee felt that was sufficient to provide access to the notebook.
10. Next Meeting: January 27, 2017

2016-17 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 28, 2016
January 27, 2017
February 24, 2017
March 24, 2017
April 28, 2017
July 28, 2017

Approved: February 24, 2017

Proposed Minutes
Juvenile Benchbook Committee
February 24, 2017
10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, Amanda Yonally, David Cates, John Plummer III, Todd Ruetz, Sally Berish, Kelsey Hanlon, Daniel Kelly, Karen Love, Kaarin Lueck, Graham Polando

Staff: Matthew Hagenbush

1. The minutes from January 27, 2017 were approved.
2. Juvenile Delinquency Benchbook updates – Chapters 1, 2, 3 – The committee discussed its ongoing effort to update the Juvenile Delinquency Benchbook. Several committee members volunteered to handle upcoming chapters. Judge Hanlon and Referee Plummer volunteered to handle Chapter 1. Magistrate Kelly and Magistrate Berish agreed to tackle Chapter 2. Judge Graham and Magistrate Yonally paired up to revise Chapter 3. The committee agreed that these chapters would be reviewed by the committee at the March meeting if revisions were completed by then, and any chapters not ready for review in March could be looked at in April.
3. General form/order template – In previous discussions, the committee agreed to create a general template for benchbook orders and forms to increase consistency and reduce the amount of time required to draft future forms. Magistrate Ruetz agreed to handle the development of this template.
4. Update on ICWA efforts – The committee reviewed the considerable efforts made by Judge Hanlon and Magistrate Lueck to create ICWA materials for Indiana that comply with the new ICWA regulations effective December 2016. The committee examined different benchcard options and discussed the viability of those options for use on the bench. Judge Hanlon and Magistrate Lueck will use that feedback to develop Indiana's take on an ICWA benchcard. After debating the merits of using separate ICWA orders versus including extensive ICWA language in existing initial hearing order templates, the committee agreed that separate ICWA orders would be developed, and they would be included in the Miscellaneous chapter of the benchbooks.
5. Dealing with deadlines for CHINS/TPR fact findings – The committee discussed the effects of the ongoing increase in CHINS cases on their ability to conduct CHINS and TPR fact finding hearings in compliance with statutory timelines. Strategies were examined to improve compliance, including requiring witness lists, limiting the time allotted to both sides to present evidence, proper inclusion of underlying CHINS orders, and multiple settings.
6. Permanency hearings – findings on all permanency plans – Matt Hagenbush carried a suggestion from the Child and Family Service Review Permanency Workgroup comprised of DCS staff and representatives from the courts and probation to the

committee. The workgroup suggested findings regarding permanency plans that are not approved by the court should be included in review and permanency hearing orders. This allows federal reviewers to understand specifically why a given permanency plan was not workable for a child and includes efforts made to determine the viability of such a plan in the court's record. The committee discussed and approved this suggestion. Matt Hagenbush agreed to make the alterations to these orders and get them posted.

7. CHINS Initial/Detention hearing order suggestions – The committee expressed concern that these matters were better addressed when the committee begins its next edition of the CHINS Benchbook, upon completion of the Delinquency Benchbook rewrite. The suggestions were tabled until that time.
8. Posting of notice of updates – Matt Hagenbush suggested the committee might consider providing occasional updates when chapters in the ongoing Delinquency Benchbook rewrite are updated. He pointed out a specific area in the INCite Benchbook application where such updates could be placed. The committee agreed this would be useful to judicial officers and approved the updates.
9. Uniformity of benchbooks – This item will be listed as an ongoing item, but there were no updates on this issue.
10. Open discussion – Topics included the release of the Information Sharing Guide, human trafficking efforts, and standards for TPR cases.
11. Next Meeting: March 24, 2017

2016-17 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 28, 2016
January 27, 2017
February 24, 2017
March 24, 2017
April 28, 2017
July 28, 2017

Approved: 3/24/2017

Proposed Minutes
Juvenile Benchbook Committee
March 24, 2017
10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, David Cates, John Plummer III, Todd Ruetz, Sally Berish, Kelsey Hanlon, Karen Love, Kaarin Lueck, Graham Polando, Diana Burleson

Staff: Matthew Hagenbush

1. The minutes from February 24, 2017 were approved.
2. Update on ICWA efforts – The committee reviewed the benchcard drafted by Judge Hanlon and Magistrate Lueck. The benchcard reflected Indiana’s take on ICWA requirements under the specific constraints of Indiana law. After review of its contents, the benchcard was approved for posting and distribution.
3. Juvenile Delinquency Benchbook updates – Chapters 1, 2, 3 – The committee discussed updates on its ongoing effort to update the Juvenile Delinquency Benchbook. Several committee members volunteered to handle upcoming chapters. Judge Hanlon and Referee Plummer’s edits on Chapter 1 and Judge Graham and Magistrate Yonally’s Chapter 3 edits were examined by the committee. Suggestions for altered language were made and incorporated into the drafts. After discussion, the chapters were approved to be added to the Juvenile Delinquency Benchbook. Magistrate Kelly and Magistrate Berish’s Chapter 2 efforts will be reviewed at the April meeting.
4. Further delinquency update assignments – Edits for Chapters 4, 5, and 6 were assigned to continue the committee’s efforts to update the Juvenile Delinquency Benchbook. Magistrate Polando agreed to handle Chapters 4 and 5, and Judge Cates volunteered to take Chapter 6.
5. General form/order template – The committee briefly discussed work done by Magistrate Ruetz to examine viable options for a general order template. Magistrate Ruetz will continue to work on this project, and will update the committee at the next meeting.
6. Proposals from Public Defender Council on right to counsel – The Indiana Public Defender Council proposed several edits and alterations to existing benchbook material related to a juvenile’s right to counsel and Indiana Criminal Rule 25. Several documents were included in the proposal. The committee decided to examine these proposals at the April meeting, where more time could be devoted to their consideration.
7. Open discussion – The committee discussed ongoing juvenile issues, including custody changes in CHINS cases where a concurrent paternity case exists.
8. Next Meeting: April 28, 2017

2016-17 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 28, 2016

January 27, 2017

February 24, 2017

March 24, 2017

April 28, 2017

July 28, 2017

Approved: 4/28/2017

Minutes

Juvenile Benchbook Committee

April 28, 2017

10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, David Cates, John Plummer III, Harry Siamas, Sally Berish, Kelsey Hanlon, Karen Love, Kaarin Lueck, Graham Polando, Diana Burleson, Amanda Yonally, Dan Kelly

Staff: Matthew Hagenbush

1. The minutes from March 24, 2017 were approved.
2. Juvenile Delinquency Benchbook updates – Chapter 2, 4, 5, 6 – Chapters 2 and 6 will be reviewed at the July meeting. The committee reviewed Chapters 4 and 5. Magistrate Polando worked on both chapters and the accompanying forms. The committee incorporated a few minor edits on language and approved Chapters 4 and 5 for posting. The committee also discussed whether preparing forms for prosecutors to use was the committee's responsibility.
3. Further delinquency update assignments – Chapters 8, 9, and 10 were assigned for edits. Magistrate Lueck volunteered to handle the dialogues in Chapter 8. Judge Love agreed to review and edit Chapter 9. Judge Hanlon and Magistrate Yonally accepted the charge of revising Chapter 10. These chapters will be considered, along with still pending Chapter 2 and 6, during the July meeting.
4. Update on ICWA orders – Judge Hanlon and Magistrate Lueck presented two ICWA orders and an insert for initial/detention hearing dialogues containing ICWA material. The committee examined those submissions and approved them for posting. Additionally, the committee discussed where the new ICWA benchcard would be posted. A new chapter in the CHINS and delinquency benchbooks will be created for ICWA, and the benchcard will be posted there.
5. Proposals from Public Defender Council on right to counsel – The Indiana Public Defender Council proposed several edits and alterations to existing benchbook material related to a juvenile's right to counsel and Indiana Criminal Rule 25. Several documents were included in the proposal. The committee reviewed these materials, but concluded that they preferred to examine the materials as they naturally arise during the ongoing rewrite of the Juvenile Delinquency Benchbook. The proffered forms come from several different chapters.
6. Expungement petitions and orders – HEA 1218 changes the expungement procedure for juvenile cases. Judge Graham worked on revisions of the committee's current benchbook forms to reflect the new statutes and reconcile any changes that would make the posted form inconsistent. The committee expressed concern about engaging in legal advocacy

for pro se litigants, and thus wanted the form to reflect the statute as closely as possible to avoid any issues in that regard. Judge Graham will continue revising the form.

7. Open discussion – The committee discussed ongoing juvenile issues, including whether juvenile courts are required to accept transfer of CHINS cases from other counties and SEA 447, the Department of Child Services’ bill, which was signed by Governor Holcomb on April 26, 2017.
8. Next Meeting: July 28, 2017

Some meeting dates were set for the 2017-18 meeting calendar. Those dates are:

August 25, 2017
October 27, 2017
January 26, 2018
February 23, 2018

Further 2017-18 meeting dates will be determined at a later meeting.

2016-17 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 28, 2016
January 27, 2017
February 24, 2017
March 24, 2017
April 28, 2017
July 28, 2017

Approved: 07/28/2017

Proposed Minutes
Juvenile Benchbook Committee
August 25, 2017
10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, Harry Siamas, David Cates, Kaarin Lueck, Sally Berish, Diana Burleson, Dan Kelly

Staff: Matthew Hagenbush, Kim Spindler

Guests: Heather Kestian, DCS

1. The committee thanked its departing committee members – Judge Evans, Judge Stefaniak, and Judge Siamas. Incoming committee members are Judge MacTavish, Magistrate Pappas, and Magistrate Gruett.
2. The minutes from July 28, 2017 were approved.
3. Juvenile Delinquency Benchbook updates – Chapter 2 was reviewed by the committee. After minor changes, the chapter was approved for posting. A rough draft of Chapter 6 was also reviewed, but not yet approved.
4. Further delinquency update assignments – Magistrate Yonally and Referee Plummer were assigned to handle Chapter 11. Magistrate Berish volunteered to revise Chapter 12. Judge Graham agreed to take Chapter 13.
5. Collaborative care forms – Heather Kestian, DCS, discussed collaborative care processes and forms with the committee. Concerns were addressed with the process of how an older youth is transitioned from the child's CHINS case to a collaborative care case, including the timing of the agreement being signed and submitted to the trial court. Many of the discussed issues were the result of miscommunication between DCS Central Office and local offices on how these cases were to be handled. The committee thanked Heather Kestian for her willingness to attend and talk about these issues.
6. DCS TPR petition forms – A discrepancy identified by Magistrate Polando was discussed wherein DCS alleges the language about no reasonable efforts findings under Ind. Code 31-34-21-5.6 without actually alleging the time and nature of the finding as Ind. Code 31-35-2-4 requires. The committee agreed that individual trial judges should handle this issue as they see fit.
7. Open discussion – The committee briefly discussed ongoing juvenile issues before adjourning.
8. Next Meeting: October 27, 2017

2017-18 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 27, 2017

January 26, 2018

February 23, 2018

March 23, 2018

April 27, 2018

July 27, 2018

August 24, 2018

Approved:

Minutes

Juvenile Benchbook Committee

October 27, 2017

10:00 a.m. -1:00 p.m.

Members present: Faith Graham, chair, Kelsey Hanlon, Daniel Pappas, John Plummer, David Cates, Kaarin Lueck, Diana Burleson, Dan Kelly, Graham Polando, Amanda Yonally, Bruce MacTavish

Staff: Matthew Hagenbush, Kim Spindler

1. The minutes from August 25, 2017 were approved.
2. Juvenile Delinquency Benchbook updates – Chapters 6 and 8 were reviewed by the committee. After minor changes, the chapters were approved for posting. Chapter 12 was tabled for discussion at the January meeting.
3. Further delinquency update assignments – Judge Hanlon was assigned to handle Chapter 14. Mag. Burleson volunteered to revise Chapter 15. Chapter 16 was given to Judge Graham and Mag. Pappas. Judge Hanlon and Mag. Lueck will team up to rework Chapter 17. Mag. Pappas and Mag. Gruett were tasked with Chapter 18. All pending chapters of the Juvenile Delinquency Benchbook have now already been revised or are assigned for revision.
4. Hearings for no reasonable efforts findings – The committee discussed whether findings are required to hold a hearing in order to make a “no reasonable efforts required to reunify” finding under Ind. Code 31-34-21-5.6. The committee agreed to revisit the issue when the CHINS benchbook is revised.
5. Publication requirements for termination of parental rights on unknown parents – The committee examined termination of parental rights issues involving unknown parents. The committee resolved to add a practice note about notice to unknown parents in the TPR benchbook.
6. Public defender training – The committee was notified about a series of free trainings on the “Role of Juvenile Defense Counsel” provided by the Indiana Public Defender Council in Marion, Bartholomew, and Vanderburgh Counties in mid-November.
7. Re-litigation of TPR – The committee examined current benchbook guidance on issue and claim preclusion in the TPR benchbook. Mag. Polando was assigned to draft a practice note on this issue.
8. Open discussion – The committee briefly discussed ongoing juvenile issues before adjourning.
9. Next Meeting: January 26, 2018

2017-18 Meeting Calendar: Meetings are generally held the 4th Friday of each month.

October 27, 2017
January 26, 2018
February 23, 2018
March 23, 2018
April 27, 2018
July 27, 2018
August 24, 2018

Approved: 1/26/2018